
Appeal Decision

Site visit made on 20 June 2019

by R Sabu BA(Hons) MA BArch PgDip ARB RIBA

an Inspector appointed by the Secretary of State

Decision date: Thursday, 11 July 2019

Appeal Ref: APP/C1570/W/19/3225444

Land to the West of Stortford Road, Stortford Road, Clavering, Essex

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission in principle.
 - The appeal is made by Mr John Noble against the decision of Uttlesford District Council.
 - The application Ref UTT/18/3326/PIP, dated 30 November 2018, was refused by notice dated 14 March 2019.
 - The development proposed is described as, 'planning in principle for between 6 and 8 dwellings'.
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Decision

1. The appeal is allowed and planning permission in principle is granted for the erection of a minimum of 6 and maximum of 8 dwellings at Land to the West of Stortford Road, Stortford Road, Clavering, Essex in accordance with the terms of the application, Ref UTT/18/3326/PIP, dated 30 November 2018.

Procedural Matter

2. The appeal application is for permission in principle, as provided for in the Town and Country Planning (Permission in Principle) Order 2017. The Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development which separates the consideration of matters of principle from the technical detail. Planning permission does not exist unless both the permission in principle and the technical details are approved. This appeal relates to the first of these 2 stages. The scope of permission in principle is limited to location, land use and amount of development. I have therefore assessed the appeal on this basis and taken the submitted plans to be illustrative only.
3. I have been referred to the emerging Local Plan. However, I note that it is still in the process of being examined and a number of objections have been raised. From the evidence before me there is no certainty that the policies within it will be adopted in their current form. Consequently, I attribute the emerging Local Plan limited weight.
4. I note that the description of development differs in the appeal form and the decision notice. I have amended the description in the decision to include reference to maximum and minimum number of dwellings in accordance with the PPG.

Main Issue

5. While there are two reasons for refusal, from the evidence before me, the main issue is:
 - Whether the proposed development would be in a suitable location with particular regard to character and appearance.

Reasons

6. The appeal site lies outside of settlement boundaries and is therefore within the countryside in the terms of Uttlesford Local Plan Adopted 20 January 2005 (LP). It is part of an agricultural field with open countryside to two sides. To the north of the site lies the village of Clavering and a residential development lies to the east of the road. As such, while the location is at the edge of the settlement, given that the site is part of an agricultural field, it is more closely related to the open countryside than to the village.
7. While the application is for planning permission in principle for a minimum of six and a maximum of eight dwellings, it not only involve the erection of houses, but also would include significant areas of new road, paved driveways and domestic gardens that would alter the landscape character of the area and extend the built-up area of Clavering into the countryside. Therefore, while I note that the site is not in an area of designated landscape value, given its close relationship with the open countryside, it would have an urbanising effect on the site and would detrimentally affect the character and appearance of the area.
8. I note the site is on higher ground than the land on the opposite side of the road such that the impact of the proposal on the street scene may be greater than the existing development. While I am mindful that landscaping is a matter for future consideration, the retention of the hedge at the boundary of the site and the road would go some way to limiting the impact of the proposed dwellings on the character and appearance of this approach. Furthermore, other technical details such as layout and scale including the heights of buildings would be matters for future consideration such that the impact of the proposed development may be further limited.
9. Nevertheless, since the proposal would introduce significant areas of built development, hardstanding and domestic gardens to an undeveloped greenfield site, the proposed scheme would adversely impact the landscape character of the site.
10. Consequently, the proposed development would harm the character and appearance of the area. It would therefore conflict with LP Policy S7 which states that development will only be permitted if its appearance protects or enhances the particular character of the part of the countryside within which it is set. The proposal would also conflict with LP Policy H1 which relates to the location of housing.
11. However, given the location of the site along the road side, its position adjacent to built development and the close proximity to existing residential development on the opposite side of the road, subject to careful consideration of technical details the harm would be limited.

Other Matters

12. I note the evidence regarding the implementation of other proposals at Oxleys Close. I also note the proposals at Duddenhoe End and Hatfield Broad Oak that were approved by the Council and concerns regarding the proposal setting a precedent for future development. I also note the evidence relating to a High Court judgement. In addition, I have been referred to the comments of the Inspector for the case at Wickham Road, Clavering and Hadstock. However, limited details are before me and in any event, each proposal must be determined on its individual merits.
13. I acknowledge the evidence regarding the Strategic Land Availability Assessment and a Landscape Character Area Assessment. However, these have not altered my findings on the main issue for the reasons given above.
14. I have had regard to the comments of interested parties which have been raised in response to the proposed permission in principle. These include light and noise pollution, wildlife, water and sewage disposal and flood risk. However, these are not matters which would fall within the scope of consideration for the first stage of the Permission in Principle consent route. These are all matters which will need to be addressed as part of the technical details consent, the second stage of the process.
15. I note local concerns including the effect of the development on local services and school and healthcare facilities, loss of agricultural land, pollution and local house prices. I also note the evidence relating to the accessibility of services and facilities. However, there is little evidence before me to suggest any harm in these respects that might arise if the appeal were to be allowed and have not altered my overall decision.
16. I acknowledge local concerns regarding traffic and lack of pavement on the same side of the road as the site, however, the Highway Authority has not objected and from the evidence before me, I have no reason to disagree.
17. The Council has suggested a condition to be applied in the event that permission in principle was to be approved. However, the PPG makes it clear that it is not possible for conditions to be attached to a grant of permission in principle, whose terms may only include the site location, the type and amount of development.
18. None of the other matters raised outweigh or alter my conclusions on the main issues.

Planning Balance

19. The Council acknowledge that LP Policy S7 is partially compatible with the Framework since it has a more protective rather than positive approach towards development in rural areas and therefore carries limited weight. I note the comments of the Inspectors for the cases at Saffron Walden¹ and Newport² in relation to the consistency of LP Policy S7 with the Framework. From the evidence before me I have no reason to disagree and take a similar approach to the Inspectors of these cases in this particular regard and attribute limited weight to the conflict with this policy.

¹ Appeal Ref: APP/C1570/A/14/2218212

² Appeal Ref: APP/C1570/W/16/3166101

20. Furthermore, the main parties acknowledge that the Council cannot demonstrate a 5-year housing land supply, consequently the provisions of paragraph 11(d) of the Framework are triggered. Following the publication of the updated Framework in 2019 and the updated Planning Practice Guidance, the Council contends that it can demonstrate roughly a 3-year supply of housing land. This represents a significant shortfall. I therefore attribute limited weight to the conflict with LP Policy H1 which relates to the location of housing.
21. I note the Housing Delivery Test, however, since the Council is not able to demonstrate a 5 year housing land supply, the provisions of paragraph 11(d) of the Framework are still engaged.
22. The proposed development would provide a moderate benefit of contribution of between six and eight dwellings to the shortfall of housing. There would be temporary economic benefits during the construction phase and moderate benefits in terms of the additional residents supporting local services and community. I therefore attribute moderate weight to the benefits of the proposal.
23. Given that the harm to character and appearance of the area would be limited, and I have attributed limited weight to the conflict with LP Policies S7 and H1, I do not consider the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits.

Conclusion

24. For the reasons given above the appeal should be allowed.

R Sabu

INSPECTOR